
TEXAS SAFETY ACTION REPORT

Governor Greg Abbott
September 12, 2019



A MESSAGE FROM GOVERNOR GREG ABBOTT

We must act with resolve in response to the despicable acts of violence in El Paso and Midland-Odessa, which follow on the heels of other mass-casualty events in Dallas, Sutherland Springs, Santa Fe, and places outside of Texas. Every Texan has a role to play. Together, we will ensure a safe and secure future for our state, while also upholding the constitutional rights of all Texans.

Over the past three weeks, I have convened nearly 50 experts including community leaders, law enforcement officials, federal officials, business representatives, faith leaders, tech experts, counselors, advocates, lawmakers, and victims to study what has happened, identify any shortcomings in our current systems, and explore ways to prevent these horrific tragedies from taking place. The Texas Safety Commission discussed strategies for community healing, combatting extremist groups and domestic terrorism, and keeping guns out of the hands of criminals. I also formed the Domestic Terrorism Task Force, convening a group of law-enforcement and related experts to develop strategies for maximizing law enforcement's ability to protect against these types of events.

These meetings have been highly productive, generating ideas for immediate executive action as well as legislative improvements. Consequently, I issued eight executive orders on September 5, 2019, to take steps to fill gaps in reporting requirements, while also ensuring law enforcement and the public have the training, tools, and resources they need to provide and respond to Suspicious Activity Reports. This paper elaborates on the Executive Orders issued last week that are intended to bolster the public safety coordination that can prevent mass shootings. This paper also provides additional ideas for the Texas Legislature and state agencies to consider that can make our communities safer while also respecting the Constitution.

Solving the problems that have led to these horrific events will take more than governmental action. The complete solution will require more than what is outlined in this paper. It will require parents, families, churches, law enforcement, community groups, schools, and others working together to fortify the social fabric of our society. Texans are at our best when we are tested. Together, we will transcend this test, and forge an even better future for our state.



GREG ABBOTT
Governor

SECTION ONE: IMMEDIATE ACTION

Mass killers have struck Texas five times in recent years, and each time, Texans have stepped up to help our communities rebuild and to promote successful policies that help address future crises. This paper outlines the immediate action taken by the Office of Governor to aid local communities in the aftermath of the shootings in El Paso and Midland-Odessa. The paper also elaborates on the Executive Orders issued by the Governor that are intended to bolster the public safety coordination that can prevent mass shootings. Finally, this paper provides additional ideas for the Texas Legislature and state agencies to consider that can make our communities safer while also respecting the Constitution.

On July 7, 2015, a criminal motivated by his hatred of police shot 11 police officers in Dallas, killing six. Governor Abbott immediately reached out to Mayor Mike Rawlings and Colonel Steve McCraw of the Texas Department of Public Safety (DPS) and offered state resources to respond. Based on this incident and the 2015 shooting of Judge Julie Kocurek, Governor Abbott championed and signed the 2017 “Police Protection Act.” This act made any assault causing serious bodily injury a first degree felony. Additionally, the Office of the Governor’s Public Safety Office awarded \$24 million in grant funds to 476 law enforcement agencies for the purchase of over 43,000 rifle-resistant body armor vests.

After the shooting in Santa Fe, Texas, Governor Abbott convened discussions to identify ways to keep students and teachers safe at school. This resulted in action items and legislative recommendations compiled in the School and Firearm Safety Action Plan. During the 86th Legislative Session, the Texas Legislature enacted 17 new laws, and the state is implementing 25 recommendations from the School and Firearm Safety Action Plan. Furthermore, the Legislature appropriated nearly \$339 million in school safety funding, all of which will enhance the safety of Texas schools.

In the immediate aftermath of the shootings in Sutherland Springs and Santa Fe, the Governor’s Public Safety Office provided \$9.3 million for direct crisis response activities within these communities including mental health resources for victims, surviving family members, witnesses, and first responders; as well as \$3.2 million for initiatives recommended in the School and Firearm Safety Action Plan including school marshal training, active shooter training for school security officers, and training for school districts in standard response protocols and behavioral health threat assessments. Going forward, the Public Safety Office has made available \$9.2 million to continue long-term recovery efforts in these communities.

Immediately after the El Paso murders, the Office of the Governor sought similar results using a similar response by working with stakeholders to identify solutions. Days after the El Paso shooting, the Governor’s Public Safety Office made available \$5.5 million in financial assistance to law enforcement and other responding agencies in El Paso. Since then an additional \$1 million in costs have been identified for El Paso. In response to the tragedy in Midland-Odessa, the Governor’s Public Safety Office is currently working with local and state officials in the area to provide similar resources. The Public Safety Office will continue to work with local officials in these communities to identify and distribute eligible reimbursements within the following categories:

- Overtime and other extraordinary costs associated with the law enforcement response and investigative activities;
- Psychological first aid through the local mental health authorities (LMHAs) at no cost to survivors and those experiencing vicarious trauma;
- State behavioral health services thru the Health and Human Services Commission’s Disaster Behavioral Health Services section;

- County reimbursement for costs associated with prosecution efforts;
- School-based mental health services;
- Establishment of a Family Resiliency Center to be a focal point for community services; and
- Post Critical Incident Seminars for first responders suffering from traumatic stress.

The tragedy in El Paso demanded a holistic look at preventing and responding to threats and violent crimes, not just in schools. As a result, the Governor convened two meetings of a newly-established Texas Safety Commission to bring together experts and community leaders to develop immediate action items and recommendations to consider with a focus on threats and violent crimes. That work continues in earnest after the shooting in Midland-Odessa.

Additionally, DPS has redeployed assets to address the threat of domestic terrorism and mass casualty attacks. This effort has included the Governor's directives to:

- Conduct a state intelligence assessment on the domestic terrorism threat in Texas;
- Establish a Domestic Terrorism Section within the Texas Fusion Center to proactively seek, assess, and monitor domestic terrorism and other mass casualty threats;
- Coordinate with regional fusion centers in Texas to increase the detection and monitoring of domestic terrorism and other mass casualty threats;
- Establish Domestic Terrorism Teams to provide immediate support to the FBI Joint Terrorism Task Forces (JTTF), and increase the number of Special Agents assigned to conduct domestic counterterrorism investigations; and
- Increase the number of DPS Special Agents and Analysts in the Texas Anti-Gang Centers conducting investigations on criminal gangs affiliated with Neo-Nazi and White Nationalist groups and networks espousing terrorist attacks.

The Governor also formed the Domestic Terrorism Task Force (DTTF). The group of experts will provide advice on strategies to maximize law enforcement's ability to protect against acts of domestic terrorism. Specific objectives of the task force include:

- Analyzing current and emerging threats in Texas and developing strategies that government entities can take to prevent and respond to such threats;
- Increasing interagency cooperation and collaboration between local, state, and federal agencies;
- Developing model tools, policies, and protocols to assist in fighting domestic terrorism; and
- Providing advice and recommendations regarding state homeland security strategic planning and relevant legislative recommendations to the Governor and the Legislature.

To help close information gaps when suspicion of a potential mass shooter arises, the Governor issued eight executive orders on September 5, 2019, which enhance reporting requirements and ensure that law enforcement and the public have the training, tools, and resources they need to provide and respond to Suspicious Activity Reports. These actions are discussed below in Section Two.

SECTION TWO: SEPTEMBER 5TH EXECUTIVE ORDERS

Some elements in each mass shooting in Texas (and recent shootings nationwide) point to gaps in processes and policies that can be addressed through executive action or legislation. On September 5, 2019, Governor Abbott issued eight executive orders to help prevent future mass shootings by increasing law enforcement's ability to respond to suspicious activity. Suspicious activity reporting was identified in the recent meetings as a significant gap which needed to be addressed. In some cases, law enforcement lacked the training on how to properly obtain useful information from someone who contacts an agency to express concerns. In other cases, suspicious activity was reported, but never entered into the Texas Suspicious Activity Reporting Network (TxSARNet). This network is shared by the eight Texas fusion centers, and it also feeds into the nation-wide network of fusion centers. When data flows into the fusion center, it is then vetted, analyzed, and passed back to law enforcement if there is actionable intelligence. Without the submission of Suspicious Activity Reports (SARs), fusion centers lack the data needed to properly identify and address potential threats. To that end, Governor Abbott issued the following eight executive orders.

Order No. 1 – *Within thirty days of this order, the Texas Department of Public Safety shall develop standardized intake questions that can be used by all Texas law-enforcement agencies to better identify whether a person calling the agency has information that should be reported to the Texas Suspicious Activity Reporting Network.*

These standardized intake questions will provide law enforcement, 9-1-1 operators, and 3-1-1 operators a tool with which they can gain additional information from a caller that may not be revealed otherwise. This information can then be placed into a Suspicious Activity Report if the officer or operator believes it meets the necessary criteria outlined in Order No. 2.

Order No. 2 – *Within thirty days of this order, the Department of Public Safety shall develop clear guidance, based on the appropriate legal standard, for when and how Texas law-enforcement agencies should submit Suspicious Activity Reports.*

There is no standard policy directing when an officer should submit a SAR report. In fact, it is not clear how many, if any, such policies exist across the state. This has led to suspicious activity not being reported into TxSARNet. Without a report, fusion centers cannot collect, analyze, and disseminate back to law enforcement information about potentially dangerous individuals.

Order No. 3 – *Within sixty days of this order, the Texas Commission on Law Enforcement shall make training available to educate all law-enforcement officers regarding the standards that will be developed pursuant to Order No. 1 and Order No. 2.*

The use of standardized intake questions and adjustments to SAR policy will not necessarily translate into more SAR submissions. To ensure law enforcement across the state is properly trained on these questions and policies, the Texas Commission on Law Enforcement (TCOLE) will provide training on these issues. By providing law enforcement with the proper knowledge of what constitutes suspicious activity, how to collect it, and when to report it, Texas will be better positioned to stop violence before it occurs.

Order No. 4 – *The Department of Public Safety shall create and conduct an initiative to raise public awareness and understanding of how Suspicious Activity Reports are used by law-enforcement agencies to identify potential mass shooters or terroristic threats, so that the general public and friends, family members, coworkers, neighbors, and classmates will be more likely to report information about potential gunmen.*

Submitting SARs is not only a job for law enforcement. The public also has a role. People who commit mass violence are often known as threatening or violent to those around them. In many instances, a friend, family member, classmate, or coworker has seen the individual act in an unsettling manner. According to the Secret Service, 78 percent of attackers exhibited behaviors that caused concerns for others.¹ However, these instances are rarely reported. According to the FBI, “when concerning behavior was observed by others, the most common response was to communicate directly” to the individual who later became an active shooter (83 percent) or do nothing (54 percent). In just 41 percent of the cases the concerning behavior was reported to law enforcement. Therefore, just because concerning behavior was recognized does not necessarily mean that it was reported to law enforcement. All Texans want to do the right thing and protect our state. By raising public awareness of the importance of SARs and how to submit them, the public will be able to more successfully “See something. Say something.”

Order No. 5 – *The Department of Public Safety shall work with the Texas Education Agency and the Texas Higher Education Coordinating Board on ways to better inform schools, students, staff, and families about the importance of Suspicious Activity Reports and how to initiate that process.*

Order No. 5 enhances the public’s knowledge of SARs. It does so by providing information to those who work at, attend, or have a child attending a school, college, or university. Not only will this increase public safety across the state, it will also enhance safety at the state’s schools, colleges, and universities.

Order No. 6 – *The Department of Public Safety shall work with local law enforcement, mental-health professionals, school districts, and others to create multidisciplinary threat assessment teams for each of its regions, and when appropriate shall coordinate with federal partners.*

The United States Secret Service threat assessment model is the standard for identifying potential threats and engaging them before they can act. This multidisciplinary model, developed by the Secret Service to protect the president and vice president, has been used as a blueprint by numerous state and federal agencies. Governor Abbott’s executive order creates the teams within DPS regions, and the teams will also have a mental health component and be able to work across jurisdictions. The purpose of these teams is to identify potential threats and develop the best approach to mitigating them on a case-by-case basis.

¹ https://www.secretservice.gov/data/press/reports/USSS_FY2019_MAPS.pdf

Order No. 7 – *The Department of Public Safety, as well as the Office of the Governor, shall use all available resources to increase staff at all fusion centers in Texas for the purpose of better collecting and responding to Suspicious Activity Reports, and better monitoring and analyzing social media and other online forums, for potential threats.*

With the additional SARs, DPS and the other fusion centers will need to be able to vet all potential leads. To do that, Texas fusion centers will need to increase staff. This will help ensure SARs are addressed in a timely fashion and that law enforcement has as much time to act as possible before a potential incident occurs.

Order No. 8 – *Beginning January 1, 2020, all future grant awards from the Office of the Governor to counties shall require a commitment that the county will report at least 90 percent of convictions within seven business days to the Criminal Justice Information System at the Department of Public Safety. By January 1, 2021, such reporting must take place within five business days.*

Texas counties report final dispositions to DPS. If a person seeks to purchase a firearm, the background check will flag a disqualifying conviction if it has been entered into the system. To more quickly ensure all convictions are entered into the system, and thus reducing the chances a person ineligible to own a firearm clears a background check, future grant funding from the Office of the Governor will only be awarded to counties that commit to meeting the 90 percent report rate and doing so within seven business days by January 1, 2020, and five business days by January 1, 2021.

SECTION THREE: ADDITIONAL EXECUTIVE ACTIONS

The Governor's September 5, 2019, Executive Order is just the first step that the executive branch will take to improve public safety. There are other concrete steps that agencies may take in the immediate future. State agencies must coordinate with the Office of the Governor to implement policies to better protect Texans.

Strengthen Domestic Violence High Risk Teams across the state. Of the twenty-seven mass shooters identified in the 2019 Secret Service report, thirty percent had a history of domestic violence.² The strong link between domestic violence, domestic terror, and mass shootings demands the attention of policymakers. Early intervention efforts can both reduce the impact of domestic violence and ensure that these acts do not escalate into even more serious crimes. Domestic Violence High Risk Teams, first proposed in Texas by then-Attorney General Abbott in 2014 and currently funded by the Criminal Justice Division of the Office of the Governor and the Office of the Attorney General (OAG), provide an intervention model that centers on the safety and needs of victims of domestic violence. In fiscal year 2018, six sites received grant funding from the OAG, through the Texas Council on Family Violence, to enhance victim safety; provide information about best practices; and provide assessment, training tools, and technical assistance.³ Texas could seek to expand these programs to additional locations.

Expand law enforcement training offered through the Advanced Law Enforcement Rapid Response Training (ALERRT) Center at Texas State University, and develop a public awareness campaign for the "Avoid, Deny, Defend" program. Law enforcement and other first responders play a vital role in not only responding to an active shooter event, but also in preparing the public before an event occurs. Training offered through ALERRT is an integral part of preparing first responders for a complex, integrated response. These courses focus on multi-disciplinary training involving police, fire, EMS, and dispatch to ensure that community responses are coordinated and effective.

Additionally, the ALERRT Civilian Response to Active Shooters (CRASE) program equips law enforcement to bring these tools and skills back to their communities to train individuals, businesses, and groups. Review of recent active shooter events has shown that simple steps can be taken to better safeguard lives in the event of a criminal act. The CRASE program, built upon the "Avoid, Deny, Defend" strategy, has been developed into an intuitive, easy-to-remember three-step response plan for public acts of violence. Programs such as CRASE should be promoted to increase public awareness and safety. Since the program's inception in 2004, over 170,000 individuals have received the training, with 80,000 trained since May 2018. This training should be offered to all state agency and school district employees. Private companies should be encouraged to provide active shooter training to their employees using CRASE or other solutions.⁴

² United States Secret Service, National Threat Assessment Center. July 2019. *Mass Attacks in Public Spaces – 2018*. p 5.

³ Texas Attorney General. *Empowering the Future: Crime Victim Services Annual Report 2018*. p 43. Available at <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/crime-victims/Crime%20Victim%20Services%20-%20Annual%20Report%202018.pdf>.

⁴ This suggestion was reinforced by remarks offered by victims at the Texas Safety Commission hearing in El Paso.

Refresh training for all licensed peace officers on the procedures and criteria for “emergency detention.” The Health and Safety Code Ch. 573 grants licensed peace officers the authority to place a person under an emergency detention in limited circumstances. The authority in Chapter 573 is a tool for peace officers to protect individuals from a substantial risk of serious harm. All peace officers are trained on these powers during their peace officer certification process. TCOLE should provide all licensed peace officers updated information regarding the procedures and criteria for emergency detentions.

Educate physicians and behavioral health professionals about the law concerning disclosure of confidential information to law enforcement. The Texas Medical Board, the Texas State Board of Examiners of Psychologists, and the Health and Human Services Commission should educate their physician and behavioral health professional licensees about how to comply with Health and Safety Code Sec. 611.004(a)(2) concerning disclosure of confidential information to medical or law enforcement personnel.

DPS should coordinate with fusion centers across the state to promote continuous improvement and accountability. With the exception of DPS’ Texas Joint Crime Information Center, all fusion centers are predominately locally resourced. Their funding, operational hours, tasks, and priorities are determined by local departments. This also means there is no state standard by which to measure the efficacy of fusion centers. DPS and local fusion centers should determine the relevant metrics by which fusion centers should be evaluated. Finally, the Office of the Governor will assess whether additional grant eligibility requirements for fusion centers could enhance the state’s ability to track the impact of the state’s investment in these centers.

Accelerate the development and implementation of the DPS safe firearm storage campaign, supported by the recent \$1 million appropriation. The 86th Legislature appropriated \$1 million to DPS to develop and implement a safe firearm storage campaign. DPS has until the end of the 2020-2021 biennium to spend down those funds, and is currently developing the materials to satisfy the Legislature’s intent. However, the agency must expedite the campaign to ensure the safe storage message is heard sooner rather than later.

SECTION FOUR: FIREARM SAFETY

The Texas Senate and House Select Committees on Mass Violence Prevention and Community Safety should consider adding to their policy considerations the feasibility of enacting policy changes related to the topics described below. Through this analysis, members of the Legislature can begin building consensus on reforms to improve safety in Texas.

The Legislature should consider expediting the reporting of criminal convictions to the Texas Department of Public Safety. To speed up reporting to close information gaps, the Texas Legislature should consider codifying the requirements of Executive Order No. 8, regarding Texas counties reporting final convictions to DPS, in state law. For example, if a person seeks to purchase a handgun, a background check will identify whether that person has a criminal conviction, provided it has been entered into the DPS Criminal Justice Information System. Governor Abbott's Executive Order No. 8 provides that counties must commit to reporting at least 90 percent of convictions within seven business days to the DPS System by January 1, 2020, and within five business days by January 1, 2021. It also makes any future grant funding from the Office of the Governor contingent on fulfilling this reporting commitment. The Legislature should consider codifying this requirement in state law, with consequences for non-compliance.

The Legislature should consider prohibiting straw purchases of firearms under state law. A primary goal is to keep guns out of the hands of criminals while protecting the Second Amendment rights of law-abiding citizens. One possible way to advance that cause is to prohibit "straw" purchases of firearms. No law-abiding Texan who wants to buy a gun needs to use a straw purchase. Criminals, however, sometimes use straw purchases. Currently no state law prohibits the straw purchase of a firearm. Although straw purchases violate current federal law, they are not often investigated and seldom prosecuted at the federal level. Creating state law that mirrors the federal law could provide local law enforcement with a tool to pursue criminals before violence occurs.

The Legislature should consider laws that crack down on criminals who try to illegally buy or possess guns. Most gun crimes are committed by people who possess the gun illegally.⁵ The Legislature should improve coordination between state and local law enforcement officials to identify violations of existing firearms laws, with a focus on criminals who try to illegally buy or acquire guns. The Legislature could also authorize cooperative agreements that would prompt referrals from both state and federal officials (the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives and the U.S. Attorney's Office) to local district attorneys in order to increase referrals of cases involving illegal attempts to sell or purchase firearms. Finally, the Legislature should consider amending existing state laws to increase the maximum penalties for illegal attempted purchases of guns and serious firearm trafficking crimes.

⁵ Fabio A, Duell J, Creppage K, O'Donnell K, Laporte R. Gaps continue in firearm surveillance: Evidence from a large U.S. City Bureau of Police. *Social Medicine*, 2016;10(July):13-21

The Legislature should consider requiring courts to inform convicted criminals, both orally and in writing, that they may no longer possess firearms. After conviction of some crimes, criminals lose their right to possess firearms that they may have owned prior to the conviction. Courts should clearly inform those criminals that they are no longer allowed by law to possess firearms. Failure to forfeit their firearms could lead to additional charges for unlawful possession of a firearm.⁶ If the criminal commits perjury by falsely telling the court they do not possess firearms, that crime could be prosecuted.

The Legislature should consider stiffer consequences for criminals convicted of violent offenses. Under current Texas law, a person convicted of a felony may possess a firearm five years after they have been discharged from probation or released from parole. Notably, federal law prohibits someone from ever purchasing a firearm after they have been convicted of a felony. The Legislature should consider whether some crimes demonstrate such a callous danger to others that allowing the criminal future access to guns poses a future danger to others such that Texas law should follow federal law in those circumstances and impose a lifetime prohibition on firearm possession for those criminals.

The Legislature could consider requiring that any stolen firearms be reported to the county sheriff within 10 days of when the owner becomes aware of the theft. Stolen guns pose a significant risk to community safety. Studies show that many stolen weapons are later found in the possession of a felon, a juvenile, or an individual otherwise prohibited under federal or state laws from possessing firearms. Whether stolen from a gun store or an individual gun owner, these guns often head straight into the illegal underground gun market, where they are sold, traded, and used to facilitate violent crimes. Between January 2010 and December 2015, 9,736 guns that were recovered by police in connection with a crime and traced by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) had been previously reported stolen or lost from gun stores.⁷ According to ATF, in 2012 alone, 18,874 guns were reported lost or stolen in the State of Texas.⁸

Reporting lost or stolen firearms to a county sheriff for entry into National Crime Information Center (NCIC) could be incentivized by making a report generated under the statute sufficient for an insurance claim and to limit the owner's liability if the gun is subsequently used in the commission of a crime. As stolen firearms are already entered into NCIC on a voluntary basis, no new infrastructure is necessary. Reporting lost or stolen firearms makes it easier for law enforcement to identify firearms in the possession of people who may engage in criminal activity, to accurately perform forensic analysis and tracing of firearms recovered at crime scenes, and to reunite recovered firearms with their rightful owners.

The Legislature should consider ways to make it easy, affordable, and beneficial for a private seller of firearms to voluntarily use background checks when selling firearms to strangers. Under current law, background checks are only required for transfers conducted at Federal Firearms Licensees (FFLs). Although this is the only time that a background check is mandated, sellers and purchasers may voluntarily conduct a sale through an FFL for a nominal fee in order to ensure that the purchaser is not a prohibited person. The Legislature should consider ways to make it easy, affordable, and more common for sellers of firearms to voluntarily use background checks when selling firearms to strangers. This could reduce inadvertent and unwitting private sales of guns to persons who may be prohibited from purchasing them. Any proposal for voluntary background checks for the private sale of firearms to strangers should include legal protection for the seller, should the buyer later commit a crime that involves the weapon.

⁶ Texas Penal Code 46.04(c).

⁷ FFL Theft/Loss Reports Matching Firearms Subsequently Recovered and Traced. ATF. 2010-2015.

⁸ <https://www.atf.gov/resource-center/docs/2012-firearms-reported-lost-and-stolenpdf-1/download>

The Legislature should consider prohibiting juvenile offenders convicted of certain violent crimes from legally purchasing firearms. Under current law, juvenile convictions in Texas may be reported to the National Instant Criminal Background Check System (NICS), but that reporting will only prevent the purchase of a firearm in rare circumstances, such as when a juvenile is certified to stand trial as an adult. The Legislature should consider proposals that prevent juveniles convicted of certain violent offenses from possessing a firearm until five years after they leave the juvenile justice system.

The Legislature should spur cooperation to encourage social media companies to report suspicious activity to law enforcement. Many law enforcement agencies have expressed frustration at not knowing how to contact social media companies when they need assistance. Law enforcement and social media should collaborate to identify and prevent violence on online platforms and web hosting companies. Previous shooters have used social media to further their agenda. For example, the Dayton, Ohio, shooter's social media account showed open calls for violence against women, police, and those with whom he disagreed politically. Social media companies should report suspicious activity to law enforcement. Any law that requires social media to report suspicious activity should also include liability protection for making the report.

The Legislature should consider implementing and funding a Texas program, similar to federal initiatives, which uses a multi-pronged strategy of policing and prosecution, agency integration, and identification of violent crime hot spots. The focus would be on criminals with guns, not law-abiding Texans. Federal initiatives have used a focused law enforcement and prosecution strategy to bring cases involving felons with guns, armed drug dealers, and armed domestic violence offenders from state to federal court in order to take advantage of stiffer bond rules and sentencing guidelines. They have sought to integrate local police, state police, federal ATF and FBI investigators, and local and federal prosecutors in order to promptly arrest, prosecute, and sentence armed criminals. Additional components have included community outreach and education efforts using various media outlets to notify criminals and the general public about these law enforcement efforts. The Legislature should consider a similar approach in Texas that would provide state resources to collaborate with local law enforcement to investigate and prosecute crimes committed with firearms. The Legislature should consider implementing and funding programs like these at the state level to reduce crime, deter illegal firearm use, and decrease firearm-related homicides.

The Legislature should consider a law that works in conjunction with the proposed federal “Protecting Communities and Preserving the Second Amendment Act” of 2019. In 2017, approximately 25.6 million firearm-related background checks were processed through NICS, and about 181,000 (approximately 1 percent) of the attempted purchases were denied because the individual was prohibited from possessing a firearm under federal or state law.⁹ To purchase a firearm from a FFL—or gun dealer—individuals are required to complete ATF Form 4473, certifying that they are not prohibited from purchasing or receiving a firearm under federal or state law. Individuals who sign the form and are later determined through a background check to be prohibited could be subject to investigation, and if prosecuted, a fine, imprisonment, or both.¹⁰

For 29 states, including Texas, the FBI's NICS Section is responsible for processing all NICS background checks and referring denied transactions to ATF. These are known as non-point-of-contact (non-POC) states. ATF is responsible for determining which denied transactions to investigate and refer to a United States Attorney's Office (USAO) for prosecution.

⁹ See 18 U.S.C. § 922(g) and (n) (listing persons generally prohibited from possessing federal firearms based on specified offenses).

¹⁰ Making false written statements on the ATF Form 4473 is a federal felony punishable by up to 10 years in prison and up to a \$250,000 fine. See 18 U.S.C. §§ 922(a)(6), 924(a)(2), and 3571(b)(3).

A September 2018 report by the United States Government Accountability Office (GAO) found that in 2017, federal NICS checks of individuals who falsified information on a firearms form resulted in about 112,000 denied transactions. ATF referred about 12,700 of these to its field divisions for further investigation. USAO had prosecuted just 12 of these cases as of June 2018.

To address concerns regarding this lack of enforcement and prosecution, Senators Ted Cruz and Chuck Grassley have proposed the Protecting Communities and Preserving the Second Amendment Act. This legislation would establish a program in 15 jurisdictions with the highest total number and highest per capita rate of homicides according to the most recent FBI uniform crime report; enhance coordination with state and local law enforcement officials in these jurisdictions in order to identify violations of federal firearms laws; and establish agreements with these officials for the referral to ATF and USAO for the prosecution of individuals for violations of federal firearms laws.

The proposed Act would get guns out of the hands of criminals while also protecting Second Amendment Rights of law-abiding Texans. Assuming Congress fails to pass that Act, Texas should construct the apparatus at the state level to work with all of the appropriate federal authorities to achieve in Texas the goals sought by the Act.

SECTION FIVE: ADDITIONAL STRATEGIES

Texans must reckon with the underlying causes of these acts of violence that are shocking manifestations of everyday callousness, indifference, bullying, disrespect for one's self and others, hate, and ideological extremism. Addressing these underlying causes certainly involves law enforcement, but must also encompass other strategies.

The Legislature should work with the Texas Education Agency (TEA) to develop strategies to improve parental engagement in schools. Parental involvement is an important part of a child's education. Countless studies suggest that increased parental involvement at schools decreases school violence.

Federal law requires every Title I school to have "a written parent involvement policy, developed with and approved by parents. This policy should spell out how parents will be involved in a meaningful way and how they will be involved in the school."¹¹ For example, Klein ISD was recognized by TEA in 2018 as a Model School District for Family Engagement.¹² The district provides families with the tools necessary to better support and engage with their students such as family and community resource centers, adult literacy programs, and parent liaisons. Laredo ISD and KIPP Texas also have strong programs worth emulating. The Legislature should work with TEA to consider strategies that improve parental involvement in public schools.

When updating the Health TEKS, the State Board of Education (SBOE) should emphasize student mental health issues, including depression, social media immersion, and drug abuse. TEA convened a Health Education Advisory Committee, in part, to help guide future discussions on mental health TEKS and to incorporate laws passed by the 86th Legislature. The Legislature should work with SBOE and TEA to consider additional strategies to provide guidance on mental health issues, social media activity, and drug abuse, with a focus on activities that can lead to violent behavior.

The Legislature should consider amending state law to ensure schools are notified when former students are arrested. Under Code of Criminal Procedure article 15.27, law enforcement agencies are required to notify superintendents when a current student is arrested within 24 hours of that arrest. School administrators report that this notice, while helpful, is insufficiently comprehensive to protect their campuses. In some cases, students with significant disciplinary problems may either drop out of the public school or transfer to a different school. Should that juvenile be arrested, the former school would be unaware of such arrests – even if the child re-enrolls at a later date. School administrators report concerns that such juveniles may inflict violence at their former campuses without the administrators at those campuses having any up-to-date information about the threats posed by their former students. To address this, law enforcement should notify the superintendent of any district a child has attended within the past 24 months. This proposal would enhance the school safety laws passed in the 86th Legislative Session.

¹¹ https://edsourcesource.org/wp-content/uploads/old/-title-i-and-parental-involvement_091556561921.pdf

¹² <https://communityimpact.com/houston/spring-klein/education/2018/09/11/klein-isd-recognized-as-model-school-district-for-family-engagement-by-tea-discusses-opportunities-to-improve-expand-program-at-sept-10-board-meeting/>

